



Madagascar

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Madagascar is a multiparty democracy in which the President and a bicameral legislature shared power. The country's Constitution was amended in 1996 and 1998. These amendments significantly strengthened the executive, weakened the National Assembly, and gave the President the right to name one-third of the senators. Although 160 political parties were active throughout the country, the ruling President and his party dominated political life, as did former president Didier Ratsiraka and his AREMA party in the previous quarter century. The new President, Marc Ravalomanana, relied on a coalition of political parties, Coalition of Marc Ravalomanana Supporters (KMMR), and his own organization Tiako-i-Madagasikara (TIM), "I love Madagascar" (which became a political party in July), to spearhead his challenge to former President Ratsiraka. Presidential elections were held in December 2001, and the results were disputed. Between January and June, both Ravalomanana in Antananarivo and Ratsiraka in the port city of Toamasina claimed to be the legitimate head of state. There was widespread, politically motivated conflict that led to approximately 100 deaths. In May Ravalomanana was declared President, and by June the Ravalomanana Government gained control of the country. The December 15 legislative elections, which international observers judged as generally free and fair, resulted in a substantial majority (124 of 156 deputies) for the TIM (102) and the pro-Ravalomanana National Alliance (22) in the new National Assembly. At year's end, four district elections were expected to be run again following the voiding of results by the High Constitutional Court. The judiciary was subject to executive influence and at times susceptible to corruption.

The Minister for Public Security (formerly a State Secretary at the Ministry of the Interior) headed the national police and was responsible for law and order in urban areas. The Gendarmerie Nationale, part of the Ministry of National Defense, insured security in all other areas of the island. Regular army units and reservists at times assumed law enforcement roles in matters that make large-scale logistical demands, such as cattle theft. Gendarmerie, regular army, and reservist units committed serious human rights abuses.

The country was very poor with a population of 16 million. Although the Government made the consolidation of a market-based economy a priority, the economy remained mixed. Agriculture was the largest sector of the economy, and shrimp and vanilla were the leading exports. More than 70 percent of the population fall below the Government's own poverty level of approximately 45 cents a day in income. In the first half of the year, trade declined by 50 percent and textile exports dropped 90 percent. Inflation was approximately 6 percent in 2001, peaked at a 60 percent annual rate during the political crisis, and fell to 12 percent by the end of the year.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Between January and June, the human rights situation worsened as both Ravalomanana and Ratsiraka fought for control of the Government, and both sides committed serious human rights abuses. After Ravalomanana achieved control of the country, the human rights situation improved; however, problems remained in some areas. Conflict between supporters of both sides was widespread and led to approximately 100 deaths. There were reports of brutality and abuse by security forces, particularly by armed irregulars (reservists) that the Government had recruited at the height of the conflict. Groups affiliated with both sides of the crisis abducted persons. Police or other security forces physically abused prisoners or detainees. Prison conditions were harsh and life threatening. In some prisons, women experienced physical abuse, including rape. The Government allowed the International Committee of the Red Cross (ICRC) to establish a permanent office in the country and to conduct inspections of detention facilities throughout the island. Arbitrary arrests and detentions of some supporters of the previous government occurred and some high-profile arrests were made months after the resolution of the political crisis. Suspects often were held for periods that exceeded the maximum sentence for the alleged offenses and lengthy pretrial detention remained a serious problem. Dina (local traditional) authorities imposed summary justice in rural areas where the Government's presence was weak. The Government limited freedom of speech and of the press. Journalists practiced self-censorship. The Government at times partially limited freedom of assembly. During the

political crisis, both sides restricted freedom of movement. Women continued to face some societal discrimination. Child labor remained a problem. Workers' rights were limited in the export processing zones (EPZs). There were reports of trafficking in women and girls. Madagascar was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as an observer.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

During the political crisis of the first half of the year, supporters of both Ravalomanana and Ratsiraka committed an estimated 100 politically motivated killings. For example, on February 2, an armed group led by Lt. Col. Assolant Coutiti killed the Director of the BTM-BAO bank, who was a Ravalomanana supporter, in Nosy Be. Coutiti, the security coordinator for the Governor of Antsiranana Province, Jean Robert Gara, and Antsiranana Deputy Soaline were believed to have been responsible for numerous other politically motivated killings in Antsiranana Province. In September government authorities arrested Coutiti; his trial was pending at year's end.

On March 19, a group of 10 men who allegedly were members of the Gendarmerie associated with Ratsiraka killed the Regional Director of the Office of Copyrights, who was a well-known KMMR member in his home in Fianaranstoa Province. There was no investigation or action taken by year's end.

On April 9, security officers assigned to Prime Minister Jacques Sylla arrested Roland Ravalomasoa, a Ratsiraka supporter, in Antananarivo. He died the same day of injuries sustained during interrogations. There was no investigation or action taken by year's end.

During the year, security forces used lethal force to disperse demonstrations (see Section 2.b.).

On February 27, a number of Ravalomanana supporters attacked a group of Ratsiraka supporters outside the Palais de la Justice in Antananarivo. In the ensuing fight, one of the Ratsiraka supporters was killed. There was no investigation or action taken by year's end.

In April a Canadian missionary watching a demonstration in Fianarantsoa from his window was killed by gunfire. Circumstantial evidence suggested that pro-Ratsiraka militias targeted the man specifically. There reportedly was an investigation; however, there was no findings released by year's end.

After the crisis ended, there were no reports of unlawful killings; however, at least one prisoner detained on charges related to the political crisis died while in custody due to his poor health and the harsh prison conditions. The Government had not investigated or explained this incident by year's end (see Section 1.c.).

During the year, there were several high-profile killings of "Karana" (persons of Indo-Pakistani origin living in the country); however, these killings appeared to have criminal rather than political motives (see Section 5). In September the authorities arrested three individuals in connection with one of these killings; however, there was no further action taken by year's end.

b. Disappearance

There were widespread, credible reports of abductions of persons for political reasons by groups affiliated with both sides during the political crisis; in some cases persons allegedly were tortured. These abductions generally were temporary in nature, the victims were released, and the perpetrators were identified. Supporters of the Ratsiraka government abducted numerous persons for political reasons, particularly in Antsiranana and Toamasina provinces, including several officials of the Church of Jesus Christ in Madagascar (FJKM), the Presbyterian Church of which President Ravalomanana is a Vice President and other known supporters of Ravalomanana (see Section 2.c.). Those abducted often were transferred to detention centers in other regions, sometimes using aircraft that belonged to a company owned by President Ratsiraka's son. Evidence provided by the nongovernmental organization (NGO) SOS to Victims of Illegality (SOSVND) indicated that the Pardes military camp in the middle of Antsiranana was the destination for the abductees.

On April 17, in the northern part of the island, Ratsiraka militias acting at the command of the local AREMA party

Deputy Madame Soaline abducted an FJKM pastor named Ndriamisaina at his home. At the time of his arrest he was allegedly beaten with rifle butts. After spending 3 days in the Ambolimadinika military camp in the Sambava region of the country, he was transferred by aircraft to the Pardes detention camp in Antsiranana (see Section 2.c.).

In Fianarantsoa, Ravalomanana supporters abducted the state's prosecutor to the Court of Appeals after vandalizing his home and automobile. The Government made no effort to investigate or punish those responsible for the abductions of Ratsiraka supporters by year's end.

There were several kidnappings of members of the Karana community. Despite reports of ethnic friction between Karana and Malagasy citizens, these crimes were not considered to be ethnically motivated but to be caused, in part, by intra-Karana rivalry (see Section 1.a.). In September authorities arrested and charged 17 persons in connection with these crimes.

There were no arrests or other action taken in the following 2001 cases: The kidnapping of a girl in Antananarivo; the February kidnapping of a manager of a large automotive company in Antananarivo; and the August attempted kidnapping and killing of the victim in the Ivandry section of Antananarivo.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution provides for the inviolability of the person; however, there were numerous, credible reports that both sides in the political crisis engaged in torture. The most common form of torture was the severe beating of detainees, usually with rifle butts. Prisoners also were burned with lighted cigarettes. The Ravalomanana Government used reservists who operated outside the normal armed forces chain of command and did not respect due process safeguards. Certain NGOs, such as the Association of Families of Persons Detained in the Context of the Political Crisis (OFPACPA), alleged that reservists engaged in numerous acts of violence, theft, and vandalism. For example, in June during their occupation of the city of Mahajanga on the country's west coast, pro-Ravalomanana reservists arrested Doctor Noel Randrianaivojaona, a prominent Ratsiraka supporter. He was publicly forced to walk on his knees over pavement for long distances. He then was incarcerated for several months before being tried on charges of "threatening the internal security of the state." He was acquitted in November.

In March in Diego Suarez, 16 resident members of KMMR were arbitrarily arrested, beaten, and tortured by pro-Ratsiraka militias and security forces. On April 20, pro-Ratsiraka forces arrested at least 10 persons and reportedly tortured some in Sambava. The detainees later were transferred to a military camp in the city of Antsiranana.

The political crisis exacerbated already harsh and life-threatening prison conditions. Prisoners' diets were considered inadequate, and families had to supplement daily rations. Prisoners without relatives went for days without food. Prison cells averaged less than one square yard of space per inmate. Adequate medical care also was a serious concern. These conditions caused a high incidence of malnutrition, malaria, tuberculosis, pneumonia, and a host of infections that resulted in an unknown number of deaths during the year. According to a Catholic Relief Services' (CRS) report, many prison health problems could be alleviated with adequate food. The Government maintained that harsh prison conditions reflected the country's low level of economic development, inadequate infrastructure, and a lack of resources. The Government was candid about the condition of prisons and generally open to requests for independent monitoring.

In the case of former Gendarmerie General Bory, the Ravalomanana Government temporarily denied family visitation and necessary medical care.

Prisoners can be used as forced labor, and there were reports that this occurred during the year. The Government was aware of the problem and said it would address it.

Pretrial detainees were not always kept separate from the general prison population. Women in prisons were abused, as were children who sometimes were confined with them. Women were not always held separately from men, and there were reports of rapes committed by other prisoners. Due to severe overcrowding, juveniles were not always held separately from the adult prison population. The 2002 CRS report indicated that prison facilities for minors adequately accommodated those detained.

In August Amnesty International (AI) visited the country for a "fact-finding and familiarization tour." AI attributed human rights abuses to both sides during and after the political crisis. AI alleged that in the post-political crisis environment in the country that nearly all of the proceedings for crimes stemming from the political crisis implicated

officials or supporters of the former regime and that among those arrested and facing charges were persons arrested "arbitrarily, solely for having expressed, in a nonviolent manner, opinions critical of the current Government." Amnesty also spoke of quasi-systematic arrests of persons associated with the previous regime. Amnesty concluded the Ravalomanana Government record on human rights was deficient. Among AI's recommendations were that all crimes committed during the political crisis be impartially and independently investigated and that those who committed them brought to justice. There also were numerous recommendations touching on procedural issues such as the rights of the accused to be informed of the charges, to the assistance of counsel, and to the setting of reasonable bail. AI also called for reforms and upgrades of the penitentiary system.

Also in August, the Ravalomanana Government signed an agreement with the International Committee of the Red Cross (ICRC) that provided the ICRC with permanent offices and access to detention centers throughout the country. It also permitted the ICRC to interview detainees without a third party. The ICRC presented its findings directly to the Government. The ICRC representatives indicated that the Government was meeting its obligations under the agreement (see Section 4). In October the CRS presented to Justice Minister Alice Rajonah its Analysis of the Penitentiary System in Madagascar. CRS representatives noted that the Government expressed a desire to improve the conditions in its 97 prisons countrywide.

d. Arbitrary Arrest, Detention, or Exile

The Constitution provides for due process for persons accused of crimes and prohibits arbitrary arrest and detention; however, the Government frequently ignored these provisions in practice. The law mandates that a criminal suspect must be charged or released within 48 hours of arrest. Ravalomanana government authorities admitted to detaining persons in connection with the political crisis for whatever length of time necessary for state prosecutors to develop a strong case. The Ravalomanana Government used reservists who operated outside the normal armed forces chain of command to make many of the arrests. These forces did not respect due process safeguards and were alleged by certain NGOs to have committed numerous abuses (see Section 1.c.).

Arrest warrants may be obtained but are not mandated strictly by law. Often a person was detained and jailed on no more than an accusation by another person. The law provides defendants in criminal cases the right to be informed of the charges against them and the right to a counsel when the charges formally are brought. The State provided counsel only in cases in which indigent defendants faced charges with sentences, if convicted, of greater than 5 years. Detainees, particularly those held in connection with the political crisis, were not always allowed family visitation or access to counsel (see Section 1.c.). A system of bail existed; however, in practice it was not extended to defendants accused of crimes related to the political crisis. Rather than grant bail, magistrates sometimes resorted to an instrument known as a retaining writ (*mandat de depot*) by which defendants were held in detention for the entire pretrial period or for periods longer than the maximum sentence on the charges faced.

Poor record keeping, lack of resources, and the difficulty of access to more remote parts of the island made it difficult to monitor pretrial detainees. According to CRS, 67 percent of the approximately 18,370 persons held in custody nationwide were in pretrial detention; however, only a small percentage of these were incarcerated on political crisis-related charges. Despite legal protections, investigative detentions often exceed 1 year. Many detainees spend a longer period in investigative detention than they would have spent incarcerated following a maximum sentence on the charges faced. An August amnesty declared by the Ravalomanana Government was a traditional, proforma gesture affecting 400 prisoners that did little to alleviate the problem of overcrowding and harsh conditions in prisons.

On June 24, pro-Ratsiraka militia in Antsiranana detained a group of 73 persons, many of highland origin, and chained them to the gate surrounding the governor's mansion apparently as a warning sign to approaching Ravalomanana forces that these hostages would be used as human shields in the event of an attack. No attack came, and the hostages were unshackled within a few hours, but some remained in detention until June 29.

The Ravalomanana Government used house arrest only in the case of former Prime Minister Tantely Andrianarivo. The former Prime Minister spent more than 5 months under house arrest and in October was relocated to Antanimora prison. He was charged with embezzling public funds, harboring known criminals, compromising national security, and abusing the public trust. The proceedings were mired in disputes over jurisdictional issues. The former Prime Minister's lawyers claimed that his appointment was never officially abrogated, and that he remained Prime Minister and must be tried in a special venue (*la Haute Cour de Justice*—the High Court of Justice) reserved for ministers, rather than in the court of general jurisdiction. By year's end no trial date had been set.

The Government did not use forced exile.

e. Denial of Fair Public Trial

The Constitution provides for an autonomous judiciary; however, at all levels, the judiciary was susceptible to the influence of the executive and at times susceptible to corruption.

The judiciary had four levels. Courts of First Instance hear civil cases and criminal cases carrying limited fines and sentences. The Court of Appeals included a criminal court of first instance for more serious cases—those carrying sentences greater than 5 years. The Supreme Court of Appeals heard cases on appeal from the Court of Appeals. The High Constitutional Court (HCC) reviewed the constitutionality of laws, decrees, and ordinances and certified election results. The judiciary also included specialized courts designed to handle specific matters such as cattle theft.

The judiciary was under the control of the Ministry of Justice and, as with many other branches of government, reports of corruption persisted. In its public statements, the Ravalomanana Government made the fight against corruption a top priority; however, there were no specific actions taken by year's end. The Constitution provides defendants with the right to a full defense at every stage of the proceedings, and trials were public. Defendants had a right to be present at their trial, to confront witnesses, and to present evidence. The law provides for a presumption of innocence; however, as CRS noted, "there was a large gap between the laws that served to protect the rights of the accused and the implementation of these laws in fact. The human rights of a person accused of a crime were often transgressed."

State prosecutors sought relatively lenient sentences for those convicted of crimes committed during the political crisis; however, some sentences provoked criticism from members of the public who were seeking greater retribution.

The Mayor of Toamasina, Roland Ratsiraka, nephew of former President Ratsiraka, was arrested on seven charges that included: inciting ethnic violence; violation of the Constitution by not accepting Ravalomanana as President of the Republic; firing of three municipal police officers; aiding and abetting militias; ordering the blockade of Toamasina Airport thereby preventing Prime Minister Sylla's visit; neglecting municipal finances; and absconding with \$5 million (approximately 34 billion FMG). The local press widely criticized this action as arbitrary, particularly given Ratsiraka's known opposition to his uncle, his failure to sign the act of secession of Toamasina Province, and his advocacy during the political crisis of dismantling blockades erected throughout the country (see Section 2.d.). In Toamasina Province, his arrest provoked widespread anger, the circulation of petitions, and calls for a general strike. He was released 4 days after his arrest pending a hearing on the charges; however, there were no further developments by year's end.

The right of traditional village institutions to protect property and public order was codified in the Constitution as well as in earlier laws. Local traditional laws called Dina sometimes were used to resolve civil disputes between villages, and on occasion were used in urban areas. Because of the rise in crime, the uneven effectiveness of the judiciary, and the corruption of law enforcement, Dina jurisdiction sometimes was extended to criminal cases. Dina-based punishment could be severe and in the past had included death sentences; however, there were no reports of executions during the year. The less formal Dina process did not ensure internationally recognized standards of due process. Decisions based on Dina were not subject to codified safeguards for the accused; however, in some instances they could be challenged at the Appeals Court level. Cases also could be referred to the Office of the Mediator, which investigated and sought redress through formal judicial authorities.

Military courts were for the trial of military personnel only, were integrated into the civil judicial system, and differed only in the inclusion of military officers on jury panels. Defendants in military cases, as in civil cases, had access to an appeals process that reexamined points of law rather than questions of fact. A civilian magistrate, usually joined on the bench by a panel of military officers, presided over military trials.

The status of prisoners detained for their role in the political crisis was a major concern in the post-crisis period. The Ravalomanana Government pursued those associated with the former government and in particular those who were known to be behind the blockades placed on the roads linking the rest of the country with Antananarivo (see Section 2.d.). Those incarcerated, particularly those who served in the Gendarmerie or the Armed Forces at the time, continued to request, through their families, classification as political prisoners. Most were charged with treason; however, the detainees claimed they could not have committed treason because executive and governmental legitimacy were in question during the period, and they maintained their imprisonment was politically motivated. The NGO OFPACPA claimed the reprisals disproportionately targeted citizens of non-Merina ethnicity and thus added an ethnic factor to the political (see Section 5). Initially the Ravalomanana Government did not allow access either by counsel or by families to these prisoners; however, prisoners were allowed visitors and

counsel by year's end.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution provides for the inviolability of the individual, his abode, and for the confidentiality of his correspondence; however, these provisions were not always respected. For example, on April 8, Ravalomanana supporters sympathizers looted and burned the homes of Jean Emile Tsaranazy and Gerard Andriamileravoson, respectively, Minister of the Ratsiraka Government and Director General (Chief of Staff) in the office of the Presidency

Militia members also arrested Dr. Roger Randriamihaja, another Ravalomanana supporter, as he emerged from the forest where he sought refuge after abandoning his home for fear of bands of pro-Ratsiraka militias. In these, as in approximately 50 similar cases catalogued by NGOs and foreign missionaries, forces on both sides disregarded constitutional provisions protecting the inviolability of the home and the person.

There were widespread reports that the Ravalomanana Government initiated a write-in informer system in Toamasina Province.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, however, both the Ratsiraka and Ravalomanana governments limited those rights. During the early stages of the political crisis, the Ratsiraka Government pressured private and state-owned media to curb or alter coverage of certain political developments. Journalists practiced self-censorship. At times the Government pressured the media to curb its coverage of certain events and topics, and there were reports that government personnel intimidated journalists.

There were four privately owned national daily newspapers and many other privately owned national and local news publications that published less frequently; however, in a country with a literacy rate of approximately 54 percent, the influence of print media was minimal.

After the post-crisis period, freedom of expression and critical political expression were permitted. In October the leadership of former president Ratsiraka's AREMA party took out a full -page advertisement in one of the country's main daily newspapers that was critical of President Ravalomanana's decision to dissolve the National Assembly. In August critical opinions of President Ravalomanana's decision to acquire an aircraft for presidential use was disseminated widely in the media, which prompted the Government to provide an official explanation on the decision through the Vice Prime Minister.

During the political crisis, there were widespread, credible reports of intimidation of journalists and employees of media outlets, especially by pro-Ratsiraka militias. For example, in May pro-Ratsiraka militia in Sambava arrested and transferred to the Pardes camp in Antsiranana, Tantelimalala Randriamanantsoa and Vola Julson Rafaralahy, both employees of a radio station called Tiako-I-Andapa (see Section 1.b.). According to SOSVN, each suffered physical abuse. They were charged with "broadcasting false news reports." After detaining the pair for 1 month, the Ratsiraka authorities dropped the charges.

The Government owned the only nationwide television and radio networks. There were more than 175 privately owned radio and television stations at the end of 2001; however, federal regulations restricted them from providing nationwide coverage.

In February the former Minister of Information cut off all transmissions from the state-owned Television Malagasy (TVM) and the state-owned national radio (RNM) after some of their commentators broadcast news of President Ravalomanana's first inauguration. The state-owned media stayed off the air for several weeks and then reopened. Some provincial affiliates preferred not to broadcast for fear of local reprisals.

During the crisis period, a number of private radio stations were ransacked, burned, or forced off the air. The Ravalomanana-owned Madagascar Broadcasting System (MBS) and its regional affiliates were the targets of attacks in Antsiranana Province and elsewhere. In Antananarivo fires set by a mob forced the pro-Ratsiraka Tsiokavo radio station off the air. It was not clear if the mob was composed of Ravalomanana supporters or Ratsiraka supporters.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly; however, the Government at times limited the right in practice. The Government routinely issued permits for public meetings and demonstrations.

On January 25, a HCC decision calling for a second round of voting led Ravalomanana supporters to call a general strike. Beginning January 28, large crowds (up to several hundred thousand) of peaceful demonstrators gathered daily in Antananarivo for several months. The municipal government that was headed by Marc Ravalomanana permitted these demonstrations.

Despite being largely peaceful, some persons were killed when police used forces to disperse demonstrations. For example, on January 7, police in Antananarivo killed a young child with a tear gas canister they fired to disperse a peaceful pro-Ravalomanana demonstration.

In late February, President Ratsiraka declared a state of national emergency and martial law, which forbade most public gatherings and permitted government monitoring of suspicious individuals and groups; however, the monitoring was not effective in practice.

On March 15, 2 persons were killed and more than 40 injured when a group of Ravalomanana supporters, who accompanied Prime Minister-designate Jacques Sylla's attempt to take over the prime minister's offices in Antananarivo, clashed with elements of the military loyal to President Ratsiraka. There was no investigation or action taken by year's end.

The Constitution provides for the right of association and permits citizens to organize political parties and associations; however, the Constitution also explicitly forbids associations that "call into question the unity of the Nation, and those that advocate totalitarianism or ethnic, tribal, or religious segregation." There were 160 political parties throughout the island.

c. Freedom of Religion

The Constitution provides for freedom of religion, and both Governments of the crisis period and the Ravalomanana Government generally respected this right in practice.

Religious groups must register and obtain authorization from the Ministry of Interior; however, there were no reports that any group was denied registration during the year.

President Ravalomanana is a Vice President of the FJKM. The church, along with its Catholic, Anglican, and Lutheran counterparts (collectively known as FFKM) actively supported his candidacy for President and his policies during the political crisis. Members and facilities of the FJKM were frequent targets of pro-Ratsiraka forces (see Section 1.b.).

For a more detailed discussion see the 2002 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights; however, during the political crisis both Governments restricted these rights. The fear of crime effectively restricted travel in some areas, especially at night.

During the period of political crisis, militias and provincial governors loyal to President Ratsiraka restricted freedom of movement. In response to rising insecurity during the political crisis, roadblocks were erected and curfews were imposed in the capital. In Antananarivo security forces and citizen supporters of Ravalomanana established nighttime roadblocks to control movement. Curfews and restrictions of movement tied to the state of martial law declared by Ratsiraka never were enforced.

In February student activists, militia, and security forces loyal to President Ratsiraka erected a barricade at Brickaville, a key junction leading to Toamasina, the country's principal port, and effectively blocked the flow of goods and people to and from Antananarivo until early August. Other national arteries similarly were blocked with

varying degrees of success. There were reports of restrictions on the inter-provincial travel of vehicles and individuals from certain provinces and ethnic groups.

The country was a signatory to the 1951 U.N. Convention Relating to the Status of Refugees, although the Government has not signed the 1967 Protocol to the Convention. The law does not provide for the granting of asylum or refugee status; however, the Government cooperated closely with the U.N. High Commissioner for Refugees (UNHCR) in processing the small number of refugees or asylum seekers in the country. The issue of provision of first asylum never has arisen. There were no reports of the forced return of persons to a country where they fear persecution.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens the right to change their government peacefully; however, some degree of turmoil accompanied the three changes of government that occurred over the last 12 years.

The country nominally was a multiparty democracy in which power was divided between the executive, a bicameral assembly, an independent judiciary, and six autonomous provinces. Political and business leaders disproportionately influenced the administration of the country. Political parties coalesced around the single most powerful person, usually the President. "Pensee Unique," a national belief in which dissent was viewed as an attack on societal harmony, made a loyal opposition difficult in practice. Representatives of the President's political party usually controlled the National Assembly; however, that was not the case from May to October, and on October 16, the President decided to dissolve the National Assembly. The December 15 legislative elections resulted in a substantial majority (124 of 156) deputies declared elected for the President's TIM party and the pro-Ravalomanana National Alliance. International observer teams from the European Union and La Francophonie found the election process to be transparent and the results credible, despite some organizational and local problems. Elections are scheduled to be held in early 2003 in the four districts in which the HCC voided the December 15 results.

The Constitution stipulates that in a presidential election only a candidate who carries more than 50 percent of the popular vote in the first round may be declared the winner. If no candidate receive a majority, a second round is held between the two leading vote gainers. The candidate receiving the majority of second round votes is declared the winner.

Presidential elections were held in December 2001 amid widespread allegations that voter list tampering prevented a significant number of eligible voters from exercising their right to vote. Prior to the elections former President Ratsiraka reorganized the HCC and packed it with known supporters in a bid to control the outcome of the election.

According to the unofficial tally of the Ministry of the Interior, President Ratsiraka received 40.69 percent of the vote, while his main challenger, Mayor of Antananarivo Marc Ravalomanana received 46.49 percent. Rather than await a second round, the Ravalomanana camp demanded a recount and, with the support of civil society groups, performed a recount the results of which gave Ravalomanana slightly more than the 50 percent required. Amid increasing tensions, particularly in the capital, the HCC made an official recount, and in January the HCC confirmed the unofficial first round results with very slight variation.

Alleging fraud, Ravalomanana immediately disavowed the HCC's official count and called for a general strike. During the following month, the situation deteriorated amid growing demonstrations in the capital and ineffective mediation efforts between the principals. On February 22, Ravalomanana declared himself President and appointed Jacques Sylla as his Prime Minister. Within a week, Sylla announced the composition of his cabinet. In response President Ratsiraka declared martial law in Antananarivo and appointed a military governor for the province. On March 4, the five governors of the country's other provinces announced that the national capital had been transferred to Toamasina. On March 14, the symbolic occupation of the Prime Minister's offices by Jacques Sylla led to an armed clash that left two dead and many injured. Later in March, pro-Ratsiraka forces began a systematic campaign targeting the infrastructure of Antananarivo by destroying a bridge at Fatihita. Roadblocks were erected along all the arteries supplying the city, severely reducing the flow of goods and persons both in and out of the capital with severe economic and serious humanitarian consequences for the entire country (see Section 2.d.).

On April 16, the Administrative Chamber of the Supreme Court declared the reorganized HCC was established illegally by President Ratsiraka and ordered its pre-November 2001 members reinstated. This reconstituted HCC was charged with review of the returns from the December 2001 elections.

On April 18, Ravalomanana and Ratsiraka met in Dakar, Senegal, under the auspices of the African Union (AU) and signed the first of two agreements (Dakar I) designed to end the deepening political crisis. The agreement reflected the Administrative Chamber's ruling and called for a recount of first-round ballots. It also outlined, in some detail, a framework to be implemented should, in that recount, neither of the two candidates received the required 50 percent of the popular vote. On April 29, 11 days after Dakar I was signed, the HCC announced the results of it recount, awarding Marc Ravalomanana 51.46 percent of ballots cast and declared him the first-round winner of the presidential election.

In response to that ruling, President Ratsiraka, with the support of five provincial governors, tightened the blockade of Antananarivo and increased attacks on the bridges leading to the capital and the nation's electrical infrastructure. On May 6, President Ravalomanana was sworn in a second time as President in Mahamasina Stadium in Antananarivo. In June the armed forces and the Gendarmerie Nationale pledged their support to the Ravalomanana Government. After a second, failed AU-brokered attempt to resolve the crisis (Dakar II), the Ravalomanana Government decided to use force to dismantle the blockades and seize control of the whole country. Within 2 weeks the major coastal cities of Tulear, Mahajanga, and Antsiranana were retaken with only token resistance from President Ratsiraka's forces. On July 8, government forces entered the Ratsiraka stronghold of Toamasina 1 day after President Ratsiraka left the country for France.

There were 11 women in the 150-member National Assembly dissolved in October and 9 women in the 90-member Senate at year's end. There were 8 women in the 160-member National Assembly elected in December.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of local and international human rights groups, including SOSVN, OFPACPA, the ICRC, and CRS operated without government restrictions, and freely investigated, published, and otherwise disseminated their findings on human rights issues. These organizations reported that Ravalomanana government officials cooperated with their requests and were responsive to their views.

The Constitution requires the Government to create organizations that promote and protect human rights. The National Commission for Human Rights (CNDH) undertook public awareness campaigns and workshops with international NGOs that nevertheless were limited in their overall impact. The CNDH was apolitical and in practice generally remained separate from partisan politics. During the political crisis, the CNDH suspended its work in part because its meetings had become forums for political invective. The CNDH resumed work in the second half of the year and tentatively planned to publish its report in early 2003.

Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution prohibits all forms of discrimination. No specific government institutions were designated to enforce these antidiscrimination provisions.

Women

Domestic violence against women was not widespread. Police and legal authorities generally intervened when physical abuse was reported. The prohibition against rape was the only statute specifically to address violence against women. Spouses can be tried for nonrape abuses, generally under civil law. There were reports in media and public acknowledgements of a domestic violence problem, including reports of battered women. In December the Government launched the first national campaign highlighting domestic violence.

Prostitution is not a crime; however, related activities, such as pandering, are criminal. Incitement of minors to debauchery is a crime. The Ratsiraka Government acknowledged the existence of sexual tourism and undertook an awareness campaign; however, the political crisis and lack of resources precluded the Ravalomanana Government from addressing the problem.

Under the law, wives have an equal voice in selecting the location of the couple's residence, and they generally receive an equitable share of common property on divorce. Widows with children inherit half of joint marital property. A tradition known as "the customary third" occasionally was observed in some areas. Under this custom, the wife had the right only to one third of a couple's joint holdings; however, a widow received a government-provided pension, while a widower did not.

There was relatively little societal discrimination against women in urban areas, where many women owned or managed businesses and held management positions in state-owned companies. The latest information from the Ministry of Labor indicated that women owned 30 percent of formal sector companies and 53 percent of informal sector companies. A number of NGOs focused on the civic education of women and girls and publicized and explained their specific legal protections; however, due to cultural traditions, few women lodged official complaints or sought redress when their legal rights were compromised.

Children

The Ministry of Health, the Ministry of Education, and the Ministry for Population and the Condition of Women and Children were responsible for various aspects of child welfare. Lack of funds insured that public services in this area remained inadequate. Lack of funding also precluded the compilation of reliable statistics.

The Constitution provides for free public education for all citizen children and makes primary education compulsory for all. According to the Government's Interim Poverty Reduction Strategy Paper (IPRSP) prepared in 2000, only 50 percent of primary school-age children were enrolled (see Section 6.d.).

There were no reports of societal patterns of child abuse. There were reports that in 2001 children charged with crimes were incarcerated with the general prison population (see Section 1.c.).

Persons with Disabilities

There was no official discrimination against persons with disabilities in employment, education, or in access to state services. The law broadly defines the rights of persons with disabilities. Handicap International Madagascar, an NGO advocate for persons with disabilities, led the fight for legislation mandating equal access for persons with disabilities and the establishment of the National Commission to Safeguard and Promote the Rights of Disabled Persons.

National/Racial/Ethnic Minorities

The Malagasy, of mixed Malay-Polynesian, African, and Arab descent, were divided into 18 tribes, a term without pejorative overtones in the country. The vast majority of Malagasy spoke a single Malagasy language, albeit with certain regional idiosyncrasies. None of the 18 tribes constituted a majority and there were large minorities of Indo-Pakistani and Chinese heritage.

A long history of military conquest and political dominance raised the status of highland ethnic groups of Asian origin, particularly the Merina, above that of coastal groups of African ancestry. The imbalance persisted to this day and fueled an undercurrent of tension between Malagasy of highland and coastal descents. Ethnicity, caste, and regional solidarity often were factors in hiring practices.

A significant Indo-Pakistani (Karana) community has been present for over a century. Traditionally engaged in commerce, the Karana numbered approximately 20,000 persons. Few of them held Malagasy citizenship, which was acquired through a native-born Malagasy mother. Indo-Pakistani merchants were mistrusted widely. During the political crisis, Karana businesses were vandalized on numerous occasions, and the authorities generally were slow to respond to these disturbances. In October President Ravalomanana met with Karana business leaders and expressed a willingness to look into citizenship issues raised by their community.

Section 6 Workers Rights

a. The Right of Association

The Constitution and the Labor Code provide workers in the public and private sectors with the legal right to establish and join labor unions of their choosing without prior authorization; however, essential service workers, including police and military personnel, may not form unions. Unions were required to register with the Government, and registration was granted routinely. Ministry of Labor statistics indicate that less than 5 percent of workers in export processing zone (EPZ) companies and less than 10 percent of all workers were unionized. There were a number of trade union federations, many of which were affiliated formally with political parties. During the political crisis, union participation was evident in numerous mass demonstrations throughout the country, particularly in those held in Antananarivo in support of President Ravalomanana.

The Labor Code prohibits discrimination by employers against labor organizers, union members, and unions. In the event of antiunion activity, unions or their members may file suit against the employer in civil court. Labor laws apply uniformly throughout the country; however, the Government's enforcement of labor laws and regulations was hampered by a lack of staff and financial resources.

In 2001 the International Labor Organization (ILO) noted a number of instances in which the Government failed to bring law and regulation into conformity with existing conventions or otherwise submit texts for ILO review, including those addressing forced labor, freedom of association, safeguarding of machinery, hygiene in commerce and offices, and weight limits. The political crisis prevented these issues being addressed during the year.

Unions may join international labor organizations and may form federations or confederations

b. The Right to Organize and Bargain Collectively

The Constitution provides for the right of workers to bargain collectively. The Labor Code states that either management or labor may initiate collective bargaining. In practice the condition of the economy insured that collective bargaining agreements remained rare. Despite the existence of several public employees unions, few public employees were union members; however, during the year, public employees demonstrated a significant capacity to act in concert, particularly with respect to political matters.

The Constitution provides for the right to strike, within parameters fixed by law. This right extended to the EPZs, where several politically motivated strikes occurred during the year, even in the absence of organized unions. These strikes were primarily driven by political considerations; however, work-related issues emerged, such as demands for wage increases.

Workers in essential services have a recognized but restricted right to strike and exercised this right in the past. The Labor Code calls for workers to exhaust all options including conciliation, mediation, and arbitration before resorting to strikes. These provisions were not always observed. During the year, there was a short, nondisruptive strike over compensation by teachers grading middle school examinations. The strike ended with the examiners receiving a 50 percent--approximately \$7 to \$11 (50,000 to 79,000 FMG)--increase in the compensation they received to grade the exams.

There were reports that union members working in EPZs were mistreated and sometimes fired. Workers had recourse through the Ministry of Civil Service, Labor, and Social Laws' Office of Work for dismissals and the Office of Social Protection for mistreatment. There were many EPZs that in practice were firms operating under special import and export rules. Such firms were required to follow all pertinent labor laws and regulations, including minimum wage laws; however, the Government allegedly did not enforce its labor laws adequately in the EPZs due to inadequate resources. The EPZs generally used worker representation councils whose members were elected by the employees but were not necessarily union representatives. These representatives frequently were perceived to be subject to pressure from management and to lack autonomy.

c. Prohibition of Forced or Bonded Labor

The Labor Code prohibits forced or bonded labor, including by children; however, at times the Government did not respect this prohibition. For example, in the past there were reports that prisoners were used in private industry or for domestic functions; however, there were no reports that officials of the Ravalomanana Government engaged in these practices.

Some press reports indicated workers at times were compelled under threat of loss of employment to work beyond the legal limits (see Section 6.e.).

d. Status of Child Labor Practices and Minimum Age for Employment

The Labor Code defines a child as any person under the age of 18 years. The legal minimum age for employment was 15 years, and work by persons under the age of 18 statutorily was prohibited at sites where there was an apparent and imminent danger to health, safety, or morals. Individuals under 18 years of age also were forbidden from performing night work. The Government enforced child labor laws in the formal economic sector by means of inspectors from the Ministry of Civil Services. Enforcement in the much larger informal sector remained a serious problem. Child labor was a problem. Nearly 20 percent of urban children and 60 percent of rural children between the ages of 7 and 14 were employed. Children in rural areas generally dropped out of school to help on family

farms and urban children often worked as domestic laborers and servants. In the agricultural sector, work for children on the family subsistence farm may begin at an even younger age. In cities many children worked in occupations such as transport of goods by rickshaw and petty trading. Effective implementation of the provisions of ILO Convention 182 on the worst forms of child labor was hampered by a lack of financial resources and the political crisis.

e. Acceptable Conditions of Work

The Labor Code and its implementing legislation prescribe working conditions and wages, which were enforced by the Ministry of Civil Service, Labor, and Social Laws. The law makes separate provisions for agricultural and nonagricultural work.

The Government set the minimum wage at approximately \$25 (180,000 FMG) per month for the nonagricultural private sector. The national minimum wage did not provide a decent standard of living for a worker and family, particularly in urban areas. Although most employees know what the legal minimum wages were, in practice those rates were not always paid. High unemployment and widespread poverty led workers to accept lower wages.

The standard workweek was 40 hours in nonagricultural and service industries and 42½ hours in the agricultural sector. Although labor legislation limits workers to 20 hours of overtime per week, employees often were required to stay on until production targets were met. In some cases, this overtime was unrecorded and unpaid.

The Labor Code sets rules and standards for workers safety and worksite conditions. Women and minors may not work in positions that might endanger their health, safety, or morals. Inspectors from the Ministry of Civil Service, Labor, and Social Laws monitored labor conditions; however, they usually were able to cover only the capital region effectively. In the past, the cost of protective clothing and other safety devices often led firms to forego their use. If violators do not remedy cited violations within the time allowed, they may be sanctioned legally or assessed administrative penalties. CNAPS, the country's equivalent of the Social Security Administration, published reports on workplace conditions, occupational health hazards, and workplace accident trends. Workers did not have an explicit right to leave a dangerous workplace without jeopardizing their employment. The Labor Code applies to all workers; however, foreign workers must have a valid visa to be protected.

f. Trafficking in Persons

The law prohibits trafficking in persons; however, in the past, there were reports of trafficking in women and girls for prostitution between Madagascar and the neighboring islands of Mauritius and Reunion. The number of persons involved was difficult to determine. There were no reports of arrests for trafficking. While the Government has expressed concern about trafficking, it lacked the resources to address it effectively.